

APPEAL NO. 032598  
FILED OCTOBER 28, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 2, 2003. The hearing officer determined that the appellant (claimant) sustained a work-related repetitive trauma injury; that the date of the injury is \_\_\_\_\_; and that the claimant did not give timely notice of the claimed injury to the employer or have good cause for failing to do so and, consequently, the injury is not compensable and the claimant did not have disability. The claimant appeals the date-of-injury determination and its resulting effect on the timely notice, compensability, and disability determinations. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

Section 401.011(34) defines occupational disease as including repetitive trauma injuries. The date of injury for an occupational disease is the date the employee knew or should have known that the disease may be related to the employment (Section 408.007) and is a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer noted that the date the claimant knew or should have known that her hand problems may have been related to her employment was the date upon which she purchased and began using the paraffin wax machine to alleviate her symptoms, but that she failed to provide any specificity with regard to this date other than to state that it was sometime in \_\_\_\_\_. For this reason, nothing in our review of the record indicates that the hearing officer's date-of-injury determination is so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, we perceive no error in the hearing officer's timely notice, compensability, and disability determinations as they were based on the date-of-injury determination.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**LEO MALO  
ZURICH NORTH AMERICA  
12222 MERIT DRIVE, SUITE 700  
DALLAS, TEXAS 75251.**

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Chris Cowan  
Appeals Judge

CONCUR:

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Robert W. Potts  
Appeals Judge

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Edward Vilano  
Appeals Judge